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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,253	04/15/2004	Moon Hwan Kim	04-262	8125
34704 7590 06/04/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER MUI, CHRISTINE T	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 06/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,253

Applicant(s)

KIM ET AL.

Examiner

CHRISTINE T. MUI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see REMARKS/ARGUMENTS, filed 20 March 2008, with respect to the rejection(s) of claim(s) 1-4 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Publication No. 2002/01708123 to Housefield et al.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by US Publication No. 2002/0170823 to Housefield et al (herein referred 'Housefield').

4. Regarding claims 1 and 5, the reference Housefield discloses a test apparatus that includes a base station that has a portable glucose meter attached to it that includes a slot for receiving and retaining test strips in the base and port for receiving a test strip on the tester. The base and the tester includes user input keys and a LCD display (see [0025-0029]). It is interpreted by the examiner that when the tester is docked in the base, this is considered to be the meter body and the upper receiving hole is the port for receiving the test strip on the meter and the lower receiving hole is the slot that is designed to receive and retain the test strip.

5. Regarding claim 2, the reference Housefield discloses that the base holding the tester, which interpreted to be a single unit for detecting the glucose in a sample, includes a microprocessor the comprises of a digital integrated circuitry and is used to time selected tests, read signals, and together with associated programs and data memory, calculated and stores values of analytes in the base. The microprocessor is programmed to receive, analyze and store data from the microprocessor of the tester and communicates with the same through Bourns connectors (see [0033]). It is interpreted by the examiner that the upper connector in communication with the microprocessor in the tester when the strip is inserted in the port and the lower connector that is in communication with the microprocessor of the base provides a measuring unit that tests and reads signals.

6. Regarding claim 3, the reference Housefield discloses the microprocessor of the base tests and reads signals from the microprocessor of the tester and communicates through Bourns connectors (see [0033]). It is interpreted by the examiner that the when the microprocessor of the base communicates with the microprocessor of the tester, reading the test strip in the port, it does not read, communicate nor send a signal with the slot for receiving and retaining test strips.

7. Regarding claim 6, the reference Housefield discloses the microprocessor of the tester communicates with the microprocessor of the base through Bourns connectors so that when a test strip is inserted in the port of the tester, the glucose level may be read and displayed in the display. When the test strip is removed from the port of the upper

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receiving hole, the display is changed because there is nothing to read from the port of the tester (see [0033-0034]).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Housefield.

12. Regarding claim 4, the reference Housefield discloses the claimed invention except for displaying an error message. Housefield discloses the microprocessor of the base tests and reads signals from the microprocessor of the tester and communicates through Bourns connectors (see [0033]). It is interpreted by the examiner that the when the microprocessor of the base decides to read from both the strip in the tester and strip in the base, there will be an error message that may indicate that there is not a connection or there are no strips inserted in the holes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an error message when both strips are inserted in the receiving holes and the microprocessor the tests and reads the strips does not know which strip to read.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. MUI whose telephone number is (571)270-3243. The examiner can normally be reached on Monday-Thursday 7-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CTM

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797